IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 31748 of 2006(D)

PETITIONER:

A.A.AZAD, PROPRIETOR,
FALCON HOSPITAL, OYOOR RESIDING AT
AZAD MANZIL, OYOOR P.O., KOLLAM.

BY SRI.A.A.AZAD-(PARTY IN PERSON)

RESPONDENTS:

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1. KERALA FINANCIAL CORPORATION REPRESENTED
BY ITS MANAGING DIRECTOR, HEAD OFFICE,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. THE CHIEF MANAGER,
KERALA FINANCIAL CORPORATION, BRANCH OFFICE,
A.G.C.COMPLEX, BEACH ROAD, KOLLAM-691 001.

3. THE DEPUTY TAHASILDAR,
(REVENUE RECOVERY), KERALA FINANCIAL
CORPORATION, KOLLAM.

BY ADV.SRI.A.A.ABDUL HASSAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).NO.31748 of 2006-D

Dated this the 30th day of November, 2006

JUDGMENT

The petitioner is in default to the first respondent Corporation in relation to a loan of Rs.50 lakhs availed of by him in the year 2001. Since he defaulted to pay the amount due under the loan account, the Kerala Financial Corporation has initiated revenue recovery proceedings against him. Feeling aggrieved by the rate of interest charged by the KFC, the petitioner approached the Consumer Disputes Redressal Forum and the said petition is now pending before the Forum, it is submitted. On the motion made by the petitioner, the second respondent has offered one time settlement facility, as per Ext.P2 intimation. By that, he has been called upon to remit 10% of the outstanding amount as on 1-11-2006 which will come to Rs. 9,68,715/-, for entertaining his claim for O.T.S. facility. The petitioner could not raise the said amount, on short notice. In the meantime proceedings of the Revenue Recovery Officials for the sale of the property are progressing. The sale originally scheduled to be held in October has been adjourned to

December, it is submitted. The petitioner prays that the stipulation concerning payment of 10% of the amount outstanding may be waived. He also prays the K.F.C. may be directed to release the properties mentioned in Ext.P3 revenue recovery notice from attachment so that he can sell those properties and settle the loan account.

2. I heard the learned Standing Counsel for the K.F.C. also. The learned counsel upon, instruction, submitted that petitioner's wife, who is a co-obligant, earlier approached this Court and this Court granted certain facilities for closing the loan account. But, she did not pay any amount. It is also submitted that the OTS scheme provides payment of 10% of the amount outstanding for processing the claim under the scheme and it cannot be waived. He also submitted that the attached property cannot be released as the total dues will now come about Rs.1 crore.

3. The claim of the petitioner to waive the requirement of payment of 10% for availing the benefit of OTS scheme cannot be granted, in the absence of any legal right for the petitioner in this regard. Since substantial amounts are due to the KFC, the property attached by the Revenue Recovery Officials cannot be ordered to be released, especially in view of the fact that the

petitioner could not even pay 10% of the amount ,for availing OTS scheme.

In view of the above position, no relief can be granted to the petitioner. Accordingly, the writ petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE.

MS